



17555 PEAK AVENUE MORGAN HILL, CALIFORNIA 95037

Morgan Hill Civic Center
West Conference Room
17555 Peak Avenue
Morgan Hill, California

Chairperson:
Committee Member:
Staff:

Council Member Larry Carr
Council Member Steve Tate
City Manager Ed Tewes
Assistant to the City Manager Melissa Stevenson Dile
Police Chief Bruce Cumming
Recreation and Community Services Manager Julie Spier
Deputy Director of Public Works Mori Struve

PUBLIC SAFETY AND COMMUNITY SERVICES COMMITTEE

REGULAR MEETING

May 18, 2005

5:00 P.M.

CALL TO ORDER

DECLARATION OF POSTING OF AGENDA

In compliance with Government Code 54954.2

PUBLIC COMMENTS

The Morgan Hill Public Safety and Community Services Committee welcomes comments from all individuals on any agenda item being considered by the Committee. In the interest of brevity and timeliness, and to ensure the participation of all those desiring an opportunity to speak, comments presented to the Committee are limited to three minutes time.

BUSINESS:

1. Approve minutes of April 20, 2005 meeting
2. Sal Murillo, Santa Clara County Public Health Department, to make a presentation about the Coalition Against Tobacco about the Tobacco and Education Program (tentative)
3. Discussion of committee's operating procedures and desire to develop a committee workplan (no written report)
4. Discussion of subcommittee's role during the Indoor Recreation Center construction process (no written report)

ADJOURNMENT

NOTICE
AMERICANS WITH DISABILITIES ACT (ADA)

The City of Morgan Hill complies with the Americans with Disabilities Act (ADA) and will provide reasonable accommodation to individuals with disabilities to ensure equal access to all facilities, programs and services offered by the City.

If assistance is needed regarding any item appearing on the Public Safety and Community Services Committee agenda, please contact the Office of the City Clerk at 17555 Peak Avenue, or call 779-7259 (or, Hearing Impaired only – TDD 776-7381) to request accommodation.

**PUBLIC SAFETY AND
COMMUNITY SERVICES SUBCOMMITTEE**



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17555 Peak Avenue
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PUBLIC SAFETY AND COMMUNITY SERVICES COMMITTEE

***Draft* MINUTES**

April 20, 2005

5:00 P.M.

CALL TO ORDER

DECLARATION OF POSTING OF AGENDA

In compliance with Government Code 54954.2

PUBLIC COMMENTS

Chairperson Carr called the meeting to order at 5:00 p.m. and announced the agenda was posted in compliance with Government Code 54954.2. No members of the public were present to offer public comment.

BUSINESS:

1. Presentation of the Sobrato Soccer Complex Proposal: David Morton and Charlotte Powers
The Committee heard the presentation and discussed design features of the site. Mr. Morton reported that the Sobrato site is the primary site being considered by the Foundation.

The Committee directed staff to forward the Foundation's funding request to the Council, with the recommendation that the Council direct staff to enter into a contract with the Foundation that would enable the Foundation to use \$974,000 in CIP funds for the development and construction of the Silicon Valley Soccer Complex at Sobrato High School. The Committee recommended that the contract include provisions for City funds being allocated only after the Foundation had raised matching funds.

2. Approve minutes of March 25, 2005 meeting
The minutes were approved as presented.

3. School Resource Officer Funding

As requested at the March 23, 2005 Committee meeting, staff placed the subject of SRO funding on the April 8 City/School Liaison Committee meeting agenda. Though this meeting was cancelled, Chief Cumming reported that he discussed with Superintendent McKennan his proposal that the District provide partial funding (\$57,720 annually) for the SRO program. His understanding is that Dr. McKennan intends to recommend the MHUSD Board approve this request.

The Committee directed staff to place this item on the next City/School Liaison Committee meeting agenda.

4. Interim skate park and permanent skate park planning (no written report)

Deputy Director of Public Works Mori Struve reported that many features at the Interim Skate Park have outlived their intended life. In the next 12-18 months almost all elements at the facility will fail.

The policy question for the Committee is whether to put money into repairing the current elements, replacing those elements with other above-ground features, or developing an in-ground skate park at Community Park. A \$20,000 investment would extend the life of the features at the Interim Skate Park for two years. For \$125,000, the City could purchase more durable above-ground features which would last about 15 years and could be moved to the permanent Skate Park. Building out the in-ground skate facility is likely to cost \$900,000.

The Committee directed staff to:

- Tell the Parks and Recreation Commission that the Committee's preliminary response is that the \$125,000 option is preferable*
- Get feedback from the Youth Advisory Committee on this topic*
- Return to this topic at a future Committee meeting*

5. Subcommittee's role during the Indoor Recreation Center construction process (no written report)

This was postponed to the May 18, 2005 meeting.

6. Legislation: League of California Cities request for letters of opposition to AB 260

This item was not discussed.

7. Indoor Recreation Center Groundbreaking May 31 at 5:30 pm (tentative) (no written report)

This item was not discussed.

8. Agenda topics for May 18 meeting (no written report)

- Request by Sal Murillo, Santa Clara County Public Health Department, to make a presentation about the Coalition Against Tobacco about the Tobacco and Education Program: *No discussion of this request.*

- Tate requested the Committee discuss a Committee workplan and the role of the committee. Relationships with other bodies are not clear; for instance, should the Parks and Recreation Commission workplan go to the Public Safety and Community Services Committee before going to the Council?
- Tate requested the Committee be briefed on efforts to develop a regional approach to fire services.

ADJOURNMENT

The Committee adjourned at 6:00 pm.

**PUBLIC SAFETY AND
COMMUNITY SERVICES SUBCOMMITTEE**



STAFF REPORT: May 18, 2005

**REQUEST BY SANTA CLARA COUNTY TOBACCO CONTROL COALITION TO
MAKE A PRESENTATION TO THE CITY COUNCIL ON EFFORTS TO PREVENT
UNDERAGE SMOKING**

EXECUTIVE SUMMARY:

The Santa Clara County Tobacco Control Coalition will release a "Santa Clara Counties Communities on Tobacco Health Report Card" and would like to make a presentation before the City Council to review the Report Card findings and make recommendations on how Morgan Hill may improve its grade. The Coalition would like to schedule the presentation prior to the World No Tobacco Day media event which is scheduled for late May.

FISCAL IMPACT:

None known, as the Coalition has not yet made recommendations specific to Morgan Hill.

RECOMMENDED ACTIONS:

Direct staff to schedule a brief presentation by the Coalition at the May 25, 2005 Council meeting.

Prepared by:

Helina Guevara

Assistant to the City Manager



Tobacco Control Coalition of Santa Clara County

770 South Bascom Avenue, San José, California 95128

(408) 494-7830

(408) 494-7831 FAX

APR 25 2005

April 25, 2005

Irma Torrez
City Clerk
City of Morgan Hill
17555 Peak Avenue

Dear Ms. Torrez:

The Santa Clara County Tobacco Control Coalition together with the Coalition Against Teen Tobacco is working on a media project to inform the residents of Santa Clara County. The Joint Coalitions will release a "Santa Clara Counties Communities on Tobacco Health Report Card" in conjunction with "World No Tobacco Day" in May. As a part of this project, Coalition members would like to make a presentation before the City Council to review the Report Card findings and make recommendations as to how the city may improve upon its grade. We would like to schedule this presentation prior to the World No Tobacco Day media event that will occur in late May. The presentation could be made in as little as 5 minutes if necessary.

Each day 3000 underage youth begin smoking across the country. In our own County, \$645 million was spent in health cost (2002) with 9033 deaths directly attributed to tobacco use (2002). Of these deaths, 90% of the smokers became addicted before the legal age. The tobacco industry spends billions of dollars advertising their deadly products in our communities. One of the most effective ways to counter this seductive lure of advertising is to enforce laws that restrict window advertising, portable signs, as well as monitor and enforce the required placement of warning signs, self-service tobacco displays. Communities that have regular and ongoing youth decoy operations have the lowest rates of unlawful tobacco sales to underage minors.

The Report Card will measure the amount of work done by each city in enforcing and monitoring its individual tobacco control policies. Also graded will be the enactment of any ordinances that have been passed by the city that are stricter than current California state law requirements. This project is being done to educate both local decision-makers and the general public that tobacco use by underage youth is still a problem in our communities. Please feel free to contact me if you need more information or have questions in this regard.

Smoke-Free, Tobacco-Free: Keep Kids Healthy

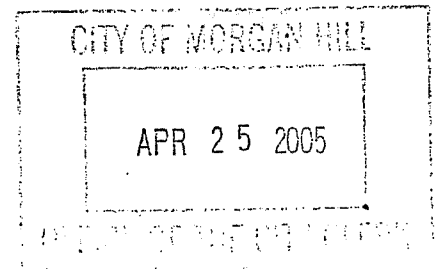


Sincerely,

Richard Nichols
Program Manager
Tobacco Prevention & Education Program
770 So. Bascom Avenue
San Jose CA 95128
(408) 494-7838
Fax(408)494-7831



**2005 Santa Clara County
Communities on Tobacco Health
Report Card Project**



Project Description

Over 480,000 people die annually in American from the effects of tobacco use and indirect smoking. With over 3000 youth become addicted to nicotine daily, policies that address the hazards of tobacco use in general, and the problems with youth and smoking in particular, were sorely needed. Laws that protect individuals from exposure to second hand smoke, reduce the access of underage youth to all forms of tobacco products, and counter the influence the tobacco industry has in our communities through marketing have also been passed at both the State and the community level. There have been many new policies enacted since the passage of Proposition 99 that funded state anti-smoking programs in 1988. The purpose of this document, or report card, is to measure and list the level of compliance and enforcement among the 13 communities, and the Sheriff's Department of Clara County. What the report card measures is the level of community monitoring and enforcement of those laws and policies that govern and regulate the sales and advertising of tobacco products. Also measured is each community's performance in enforcing current clean air legislation as required by the smoke-free bar law as well as the more recent smoke-free doorway act for public buildings. The passage of any local city or county ordinance stronger than the State requirement is also noted. Several communities such as San Jose, Santa Clara and Palo Alto have passed stronger ordinances than the State in regards to banning all forms of tobacco from self-service displays. The State, in a compromise with tobacco companies banned only cigarettes from self-service displays. The report card format was modified and used with the permission of the American Lung Association of San Diego County who originated the use of a report card for their communities.

A brief description of each of the report card categories and a justification of why it is included in the report card follows:

Enforces Sales to Minors Laws

Since 1891, California state law prohibits the sale of, or in any way furnishing tobacco products to minor youth under the age of 18. To ensure tobacco retailers are complying with this state policy, local law enforcement agencies conduct youth undercover purchase operations or "stings". During a sting, a minor decoy youth attempts to purchase tobacco products from a tobacco retailer. An undercover officer is nearby to view the transaction. If the sale is made, then the officer will cite the clerk who made the illegal sale. Fines range from \$200 for a first offense to several thousand dollars for repeat offenses. Research has shown that in communities with active enforcement of tobacco sales to minors, underage youth have a more difficult time in obtaining tobacco products from retail outlets. (PC 308 a)

Bans Self-Service Displays

Youth survey data shows that a significant percentage of underage youth smokers have shoplifted tobacco products at least once. Banning self-service displays makes it more difficult for underage youth to obtain tobacco products if they have to ask a clerk for the tobacco product. Apart from eliminating the possibility of shoplifting, the clerk must make a conscious decision to sell tobacco products to a youth for each transaction. Current state law only bans cigarettes from self-service displays. Local governments can pass stronger measures and ban all forms of tobacco from self-service displays.

Bans Vending Machines

Current state law allows vending machines to be located in a business that has an on-premise license to sell alcoholic beverages provided that the machine is at least 15 feet away from the entrance and inside the premises. Local governments may pass a law completely banning tobacco vending machines. *California Business and Professions Code Sections 22960, 22958 (b)*

Requires Licensing of Tobacco Retailers

A retail tobacco license requires retailers to obtain a license to sell tobacco products. If the retailer sells tobacco to minors, or violates other local and state laws relating to tobacco, the license can be suspended or revoked. The license fee should reflect the costs of administering and enforcing the licensing program; retailers can be charged a required a flat fee or a fee based on the volume of tobacco they sell.

Currently, 24 California communities require tobacco retailers to be licensed.

Licensure increases compliance with laws designed to eliminate the sale of tobacco to minors by creating a greater deterrent than fines alone for violating the law.

Bans Tobacco Sale from Mobile Vendors

The Board of Equalization stated recently that mobile tobacco sales are banned under AB 71. This clarifies some disagreement as to whether the language in the law actually banned mobile tobacco sales. Local law enforcement can cite unlicensed tobacco retailers, including mobile vendors, that have not obtained a license under the new law. Violation is a misdemeanor punishable by either a fine not to exceed \$5,000, imprisonment not exceeding one year in a county jail, or both. Every retail location must have a license posted by June 30, 2004. Local governments are advised to follow The Technical Assistance Legal Center (TALC) model ordinance and include a ban on mobile sales.

Enforces Sales to Minors Warning Signage

Statistics reveal retail stores that only display a tobacco industry sponsored sign, such as "We Card" and "It's the Law ", sell to minors at a rate equivalent to not having any signs. In contrast, stores with only the government-sponsored signs sell at a significantly lower rate than the stores with no signs.

- A STAKE Act warning sign must be posted at each register where tobacco is sold. *California Business and Professions Code § 22952(c.)*
- A copy of Penal Code 308 must be posted. *Penal Code Section 308(c.)*

Eliminates Free Sampling and Promotional Items

Current state law prohibits the distribution of free or nominal cost cigarettes, smokeless tobacco products, coupons, or rebate offers for such products on public grounds (such as a state or county-owned fairground). Also, free or nominal cost cigarettes or smokeless tobacco products, coupons and rebate offers may not be distributed on private grounds that are open to the public (such as a racetrack or retail outlet). Local governments may pass ordinances that are stricter than state law. (*California Health and Safety Code § 118950*)

Enforces Ban on Loose Cigarettes

Cigarettes may not be sold in packages of less than 20 cigarettes. The sale of single cigarettes ("Loosies") is prohibited. *California Penal Code 308.3*

Bans Tobacco Advertising & Promotion on City/County Property

There is no current state or federal law that prohibits tobacco advertising on property owned by a county or a municipality. Communities such as the City of San Jose and counties such as Santa Clara have passed ordinances that prohibit such advertising. The general public and youth in particular are bombarded daily with tobacco advertising in magazines, storefront advertising, portable signs, and tobacco logos on everything from clocks, change trays, push/pull signs, shopping baskets and display cases. Local governments can take a stand and protect their communities from the seven billion dollars tobacco companies spend in tobacco advertising annually.

Enforces Window Advertising Limits

Most communities in Santa Clara County have limits that restrict the allowable amount of retail window advertising. The limit most communities have for window advertising is 25%. This is done to both provide a level of safety for the shopkeepers and to prevent the blight caused by unchecked and unregulated advertising. Tobacco billboard advertising (over 14 square feet) was banned in 1998 by the Master Settlement Agreement. This agreement was between the Attorney Generals of 46 states (including California) and the major tobacco companies. After this, the five largest cigarette manufacturers spent \$8.24 billion on advertising and promotional expenditures in 1999, a 22.3 percent increase from the \$6.73 billion spent in 1998. Point-of-sale, or storefront advertising increased from \$290.7 million in 1998 to \$329.4 million in 1999. Communities can counter this barrage of storefront tobacco advertising by enforcing current limits on window advertising. Recent surveys of tobacco retailers found almost all communities in Santa Clara County had tobacco retailers out of compliance with this regulation. In some instances, window advertising and signs approached 100 percent coverage of the windows.

Bans/Enforces Ban on Portable Signs, Banners.

The STORE Campaign recommends the following strategies to decrease the tobacco industry's deceptive advertising in the retail environment:

Addressing multiple aspects of the tobacco retail environment includes:

- Self service display bans on all tobacco products, not just cigarettes.
- Local ordinances banning exterior "sandwich board" ads and restricting the percentage of exterior store space that can be covered by posters, neon lights or other ads. Advertising of all products will be covered by these policies.
- Conditional use permits or zoning ordinances that limit the number and location of new tobacco retail outlets.
- Enforcement of existing laws to decrease the proliferation of tobacco ads in stores

Prohibits Tobacco Advertising or Product Placement Below 3 Feet or Within 3 Feet of Candy

Advertising for tobacco products that are placed at a child's eye level, which is at or below three feet from the floor, or next to candy, give the impression that cigarettes and other tobacco products are no more dangerous and addictive than other consumer goods on display, such as fruit or candy.

While there are no current laws or ordinances that prohibit the display of advertising at children's eye level, communities are encourage to pass ordinances that require tobacco merchants to remove all ads placed at such a level. This will help in lessening the attraction of tobacco products to children who are too young to understand the serious health consequences tobacco use poses.

Enforces California Labor Code 6405.5 "Smoke-free Bars Law"

The California State Legislature passed Labor Code 6404.5 (Assembly Bill 13) also known as the California Smoke-Free Workplace Act in 1994 making all restaurants and nearly all other workplaces 100% smoke-free. Labor Code 6404.5 took effect in restaurants and other workplaces January 1, 1995 and in bars and casinos on January 1, 1998.

Reference:

Tobacco Laws Affecting California, Technical Assistance Legal Center, p.38, Oakland, CA, 2004

Tobacco Retail Licensing, Questions And Answers, STORE, Strategic Tobacco Retail Effort, Fact sheet, website: http://www.tecc.org/store/stages/5_communication.html

Campaign Chronicles, A Campaign Newsletter, The Center for Tobacco Policy and Organizing. Sacramento, CA., No. 9 March 2004

For more information on AB 71 you may contact Randy Kline at TALC (510) 302-3303 or Julie Bradley-Hart at the Center for Tobacco Policy and Organizing, (916) 442-4299.